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In re Application of
TRANCHAND-BUNEL, Denis *et al*
U.S. Application No.: 09/868,399
PCT No.: PCT/FR99/03311
Int. Filing Date: 29 December 1999
Priority Date: 31 December 1998
Attorney Docket No.: 33339/235735
For: DETECTING AND MONITORING HIV
INFECTIONS

DECISION

This decision in response to the papers filed on 27 February 2002.

BACKGROUND

On 21 December 2001, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration in compliance with 37 CFR 1.497(a) and (b) must be provided. Applicants were given two months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 17 January 2002, applicants filed a declaration in the above-captioned application which was signed by three joint inventors.

On 11 February 2002, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration filed 17 January 2002 does not comply with 37 CFR 1.497(a) and (b) because there was no documentation that identifies a third inventor in the application. A one-month time limit, or the time remaining in the Notification of Missing Requirements, whichever was longer, was set for response.

On 27 February 2002, applicants submitted a "Response to Notification of Defective Response."

DISCUSSION

Applicants responded to the Notification of Defective Response by stating that "[a] clerical error was made in the International Application in that Helene GRAS-MASSE was incorrectly listed on the document in the area for designating Applicant (for

all states except the United States) rather than in the area for designating Inventor (for the United States). This clerical error has not been corrected at the International Bureau of WIPO during the international procedure." Pet. at ¶ 3.

Applicants request that "this clerical error be corrected by deleting Helen GRASMASSE as an Applicant in the International Application and that she be included in the designation of inventors for the United States." Id. at ¶ 4.

Correction of inventorship in a national stage application may be accomplished by satisfying the requirements of 37 CFR 1.497(d). The instant response does not satisfy any of the requirements of 37 CFR 1.497(d).

Nevertheless, the Notification of Defective Response mailed 11 February 2002 indicated that the declaration did not comply with 37 CFR 1.497 because there was no documentation that identifies a third inventor in the application. However, the declaration does not comply with 37 CFR 1.497 because it does not identify the inventors named in the international application, as required by 37 CFR 1.497(a)(3) and 1.41(a)(4). The Notification of Defective Response was therefore unclear.

CONCLUSION

For the reason discussed above, the Notification of Defective Response mailed 11 February 2002 has been VACATED.

Applicants must submit a proper response, *i.e.*, a proper request under 37 CFR 1.497(d) to correct inventorship within ONE (1) MONTH from the mail date of this decision or prior to the expiration of the time limit given in the Notification of Missing Requirements mailed 21 December 2001. Failure to provide a proper response will result in the ABANDONMENT of the above-captioned application.

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.



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